



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 13]

नई दिल्ली, शनिवार, जून 9, 1990/ ज्येष्ठ 19, 1912

No. 13]

NEW DELHI, SATURDAY, JUNE 9, 1990/JAISTHA 19, 1912

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)

PART II—Section 3—Sub-section (iii)

(संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than Administrations of Union
Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 15 मई, 1990

आ. अ. 24:—लोक प्रतिनिधित्व अधिनियम,
1951 (1951 का 43) की धारा 106 के अनुसरण में,
निर्वाचन आयोग 1985 की निर्वाचन अर्जी सं. 1 में
अहमदाबाद स्थित गुजरात के उच्च न्यायालय के तारीख
23 जनवरी, 1989 को सुनाए गए आदेश को इसके द्वारा
प्रकाशित करता है।

[सं. 82/गुज.-लो. स. 1/85/90]

आदेश से,

एल. एच. फारकी, अवर सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 15th May, 1990

O.N. 24.—In pursuance of Section 106 of the Represen-
tation of the People Act, 1951 (43 of 1951), the Election
Commission hereby publishes the order, pronounced on 23rd
January, 1989 of the High Court of Gujarat, at Ahmedabad
in Election Petition No. 1 of 1985.

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Election Petition No. 1 of 1985

Indubhai Chaturbhai Patel,
residing at Hari Nivas,
Maninagar, Char Rasta,
Ahmedabad

Petitioner

Versus

1. G. I. Patel,
Ketan Society,
Mr. Sardar Patel, Society,
Navjivan, Ahmedabad
and others

Respondent

Oral Order

Coram : R. C. Mankad, J
(23-1-1989)

Election Petition No. 1 of 1985

Coram : R. C. Mankad, J
(23-1-1989)

Oral Order

1. By an order passed on December 5, 1988 it was observ-
ed as follows :

"This petition is pending since February 8, 1985.
It has not been possible to proceed further with
this petition on account of inaction on the part of
the petitioner. Petitioner is, therefore, directed to

take necessary steps to prosecute this petition on December 19, 1988. If the petitioner does not appear on that date or he does not take steps to prosecute this petition, this petition shall be dismissed for non-prosecution."

After the above order was passed the hearing of this petition was adjourned twice, at the request of the learned counsel for the petitioner. In spite of the adjournments taken by the petitioner no steps have been taken to prosecute this petition. Petitioner was not appeared today in spite of the direction given by this Court as stated above. Petitioner's learned counsel as stated that his client has instructed him to withdraw this petition. However, I am not claimed to permit the withdrawal of this petition. Petitioner should have taken steps to prosecute this petition and remained present to proceed further with this petition. Since no steps have been taken to prosecute this petition nor has the petitioner remained present as directed by this court, there is no alternative but to dismiss this petition for non-prosecution.

2. In the result this Election petition is dismissed for non-prosecution. Consequentially Recrimination Petition No. 1 of 1985 will not survive. This petition is, therefore, rejected is having become infructuous. This will be no order as to costs. If any part of the court fees paid on the Election Petition and Recrimination Petition is refundable under the law it shall be refunded to the concerned party or parties.

Dated : 23-1-1989

Sd/-

R. C. MANKAD, J.

By Order of the Court,

Sd/- Illegible,

Deputy Registrar,

Sd/- Illegible,

[No. 82/GJ-HP/1/85/90]

L. H. FARUQI, Under Secy.

नई दिल्ली, 21 मई, 1990

आ. अ. 25:—निर्वाचन याचिका संख्या 1 में उच्च न्यायालय, उड़ीसा के दिनांक 18-11-87 के निर्णय/आदेश के विरुद्ध दाखिल की गई सिविल अपील संख्या 2158 (एन. सी. ई.) आफ 1988 में भारत के उच्चतम न्यायालय के दिनांक 16-2-1990 के आदेश को लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 116 ग के अनुसरण में निर्वाचन आयोग एतद्द्वारा प्रकाशित करता है।

[संख्या 82/उड़ीसा/लो. स. 1/85/87]

New Delhi, the 21st May, 1990

O.N. 25.—In pursuance of Section 116-C of the Representation of the People Act, 1951(43 of 1951), the Election Commission hereby publishes the order of the Supreme Court of India dated the 16th February, 1990 in Civil Appeal No. 2158 (NCE) of 1988 filed against the judgment of the High Court of Orissa at Cuttack dated the 18th November, 1987 in Election Petition No. 1 of 1985.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
Civil Appeal No 2158 (NCE of 1988)

Rabi Ray

Appellant

Versus

Lakshman Mallik

Respondent

ORDER

Learned counsel for the appellant seeks leave to withdraw the appeal as his client do not wish to proceed with the

appeal. The appeal is, therefore, dismissed as withdrawn. Interim Orders, if any, are vacated.

Sd/-

..... CJI

Sd/-

B. C. RAY J.

Sd/-

M. H. KANIA, J.

Sd/-

K. N. SAIKIA, J.

Sd/-

S. C. AGARWAL, J.

New Delhi,

February 16, 1990.

[No. 82/OR-HP/(1/85)[87]]

आ. अ. 26:—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग 1990 की निर्वाचन अर्जी सं. 3 में मध्य प्रदेश उच्च न्यायालय, जबलपुर के तारीख 2 फरवरी, 1990 के आदेश को एतद्द्वारा प्रकाशित करता है।

[संख्या 82/म. प्र. लो. स./3/90]

O.N. 26.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment of High Court of Madhya Pradesh at Jabalpur dated the 2nd February, 1990 in Election Petition No. 3 of 1990.

High Court of Madhya Pradesh at Jabalpur

EP N. 3 of 1990

Shri S. C. Chaturvedi for the petitioner. Heard.

The petitioner has not deposited a sum of Rs. 2500 as security as required by section 117 of the Representation of People Act and the Rules framed thereunder; but in paragraph 6 of the petition has sought two weeks time to deposit the security which period is over.

Section 86 of the Act contemplates that the High Court shall dismiss an election petition which does not comply with the provisions of Section 81 or Section 82 or Section 117 of the Representation of People Act.

Consequently this election petition is dismissed accordingly for non-compliance of the aforesaid provisions of law.

FAIZANUDDIN, Judge

[No. 82/MP-HP/3/90]

आ. अ. 27:—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग 1990 की निर्वाचन अर्जी सं. 5 में मध्य प्रदेश उच्च न्यायालय, जबलपुर के तारीख 23 मार्च, 1990 के आदेश को एतद्द्वारा प्रकाशित करता है।

[सं. 82/म. प्र. - लो. स./5/90]

आदेश से,

बलवन्त सिंह, सचिव

O.N. 27.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951) the Election Commission hereby publishes the judgment of the High Court of Madhya Pradesh at Jabalpur, dated 23rd March, 1990 in Election Petition No. 5 of 1990.

CCPY OF ORDERSHEET

IN THE HIGH COURT OF MADHYA PRADESH AT

JABALPUR

Election Petition No 5/90

PETITIONER :

1. Krishnacharya Gajendra Gadkar S/o Late Shri Ramacharya age 58 years R/o Jiwji Ganj Lashkar, Gwalior.

Versus

RESPONDENTS :

1. Madhav Rao Scindia S/o Late Shri Jiwaji Rao Scindia, aged years, r/o Jai Vilas Palace Lashkar, Gwalior. And 20 others.

ORDER IN ORDERSHEET

23-3-1990

Shri Rakesh Jain or the Petitioner, who has filed the power on behalf of the petitioner, today.

It be taken on record.

Shri Jain is heard on admission.

It may be pointed out that according to sub section (3) of section 81 of the Representation of the People Act, 1951, every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition. In the petition 21 respondents are impleaded but the petitioner has not furnished 21 copies of the petition. In the same sub-section it is further provided that every such copy and annexure shall be certified by the petitioner under his own signature to be true copies but the same has not been done in respect of Annexure P. 4 to P. 10 on which reliance has been placed and the same have been made the basis for challenge of the election of respondent No. 1. There is thus total non-compliance of sub-section (3) of section 81 of the Representation of the People Act, 1951.

Section 86 contemplates that the High Court shall dismiss an election petition which does not comply with the provisions of section 81, or section 82 or section 117. As stated earlier there is clear non-compliance of the provisions of section 81 of the Act.

Hence the petition deserves to be dismissed. The petition is dismissed.

The amount of security, if any, shall be refunded to the petitioner.

C. C. as per Rules.

Sd/-

FAIZANUDDIN, Judge

[No. 82-MP-HP/5/90]

By Order.

BALWANT SINGH, Secy.

नई दिल्ली, 21 मई, 1990

प्र. अ. 28:—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में निर्वाचन आयोग 1985 की निर्वाचन अर्जी सं. 10 में चण्डीगढ़ स्थित पंजाब व हरियाणा उच्च न्यायालय के

तारीख 16-2-1990 के आदेश की पूर्वापूर प्रकाशित करता है।

[सं. 82/पंजाब-भा. स. /10/85]

O.N. 28.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment dated the 16-2-1990 of the High Court of Punjab and Haryana at Chandigarh in Election Petition No. 10 of 1985

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL MISC. SIDE

ELECTION PETITION NO. 10 of 1985

Vikram Singh S/o Late Sh. V. P. Singh,

B-5/84 Safdarjang Enclave New Delhi.

...Petitioner.

Versus

1. Kamal Chaudhary S/o Late Ch. Balbir Singh r/o Shish Mahal, Hoshiarpur.
2. Kabal Singh C/o District Akali Dal Office, Hoshiarpur.
3. Mr. Sham Lal Sandal c/o Syndicate Bank Hoshiarpur.
4. Chanan Singh Dhutt C/o C.P.I. (M) Office Hoshiarpur, V. & P.O. Dhutt Kalan. District Hoshiarpur.
5. Pt. Narinder Nath Kaushik Ropar, C/o Janta Party Office, Ropar.
6. Ujjagar Singh C/o Bahujan Samaj Party, Government College Road, Hoshiarpur.

...Respondents.

Election Petition under Sections 80, 80-A, 81 of Representation of the People Act, 1955 praying that the election of Respondent No. 1 from Hoshiarpur parliamentary seat may please be set aside as void, and the petitioner may please be declared elected from Hoshiarpur parliament seat no. 6 and for this the petitioner shall ever pray.

Dated the 16th February, 1990

PRESENT

THE HON'BLE MR. JUSTICE GOKAL CHAND MITAL.

For the Petitioner : Mr. Ranjan Lakhanpal Advocate

For the Respondents : Mr. H. L. Sibal, Sr. Advocate with Mr. S. C. Sibal, Advocate.

ORDER

E.P. No. 10/85

JUDGMENT

GOKAL CHAND MITAL, J.

For the Hoshiarpur Parliamentary seat in the election held on 25 the September, 1985, Kamal Chaudhary was declared elected, whose election has been challenged by Vikram Singh, who had unsuccessfully contested the election.

The only ground, which survives for consideration is whether Kamal Chaudhary, was an officer of the Indian Air Force on the date of filing nomination paper and as such was disqualified to contest the election as per Section 36(2)(a)

of the Representation of People Act, 1951, read with Article 102(i) of the Constitution of India.

The election petition was contested by the returned candidate, in which he controverted the pleas raised in the election petition and further denied that he was holding post of profit on the date of filing of the nomination paper.

On the contest of the parties, the following issue was framed :

“Whether on the date of the filing of the nomination paper and on the date of the scrutiny of the nomination paper, the returned candidate (Mr. Kamal Chaudhary respondent No. 1) was holding office of profit under the Government of India ? if so, what is its effect on his election ?”.

In the election petition, some more pleas were also raised on which matters preliminary issues were framed as to “Whether paragraphs 3 to 10 of the petition disclose any cause of action and whether they lack in material particulars.”

This Court by order dated 28-11-1986 came to the conclusion that paragraphs 4 and 9 of the petition do not raise any triable issues and were struck off, whereas averments made in paragraphs 5 to 8 and 10 were given up by the counsel for the petitioner and were thus struck off.

Before this election petition could be decided, fresh election in the Parliamentary Constituency was held on 26-11-1989, in which Mr. Kamal Chaudhary has again been declared elected.

The elected candidate was a Squadron leader in Indian Air Force and on 30-8-1985, he submitted his application for premature retirement with non-benefits. The application was presented by him to Wing Commander. L. A. Fernandes, Air Force Station, Adampur, who appeared as PW1 and stated that he recommended the application of the returned candidate to the headquarters, and he was discharged the same day after working hours, by the headquarters, a photostat copy of which is Annexure PW-111 on the record. In his statement made as PW1, he testified that he conveyed a message to the Air headquarters on telephone and in return received a telephonic message to discharge him and it was in response to that telephonic message Kamal Chaudhary was relieved from duties after working hours. A question was put to the witness as to whether an Air Force Officer can be discharged on telephonic recommendation and the answer of the witness was ‘Yes’, provided the telephonic message was to be followed with recommendation in writing.

In view of the statement of the aforesaid witness, coupled with document Exhibit PW111, it is clear that the petitioner stood discharged on 30-8-1985, and, therefore, he could contest the election and there was no disqualification in doing so.

Accepting the statement of PW1 and document, Exhibit PW111, I record a finding that Kamal Chaudhary stood discharged on 30th August, 1985 and thus was competent to seek election fixed for 25-9-1985.

It was argued on behalf of the election petitioner that in such a short time, and that too by telephonic message, no order of discharge could be passed. Assuming for the sake of argument that in normal course, a written request should have been forwarded to the Air headquarters, Delhi, consuming couple of days therein, and the consideration of the matter may have taken couple of days and so also the passing of order of discharge. This process may take couple of weeks. Again assuming for the sake of argument that the petitioner may not be eligible to contest the election held on 25-9-1985 since that period has lapsed and fresh election has taken place on 26-11-1989, that is, more than four year after the previous election, this plea has become infructuous. In any event, the petitioner stood discharged during

that period from the Air Force service, and since there is no allegation of corrupt practice, this petition has become infructuous.

Accordingly, the election petition is dismissed as being without merit and in the alternative as having become infructuous, leaving the parties to bear their own costs.

February 16, 1990.

GOKAL CHAND MITAL, Judge

[No. 82/PB-HP/10/85]

आ. अ. 29 :—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग 1990 की निर्वाचन अर्जी सं. 7 में चण्डीगढ़ स्थित पंजाब और हरियाणा के उच्च न्यायालय के तारीख 15-2-1990 का निर्णय, एतद्द्वारा प्रकाशित करता है।

(संलग्न आदेश अंग्रेजी में छापे हैं)

[सं. 82/पंजाब-लो. सं./7/90]

आदेश से

जी. आर. ब्रह्मम, अवसर सचिव

O.N. 29.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment dated the 15th February, 1990, of the High Court of Punjab and Haryana at Chandigarh in Election Petition No. 7 of 1990.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CIVIL MISC. SIDE

ELECTION PETITION NO : 7 of 1990.

Isher Singh son of Shri Inder Singh, resident of village & Post Office, Sultanwind, Amritsar.

...Petitioner.

Versus.

1. Shri Simranjit Singh Mann, Shrimonai Akali Dal (Mann), Tarn Taran, District Amritsar.
2. Shri Ajit Singh, Village and Post office Manewala, Tehsil Tarn Taran, District Amritsar.
3. Sardul Singh None, Village None, P. O. Bundala, District Amritsar.
4. Chanan Singh Village Mohan Bhandarian, Tehsil Ajnala, District Amritsar.
5. Jaswant Singh Dholan, Village Dholan, P.O. Kalia Sankatā, Tehsil Patti, District Amritsar.
6. Jagat Ram, 112 Gali Jiwan Singh Tarn Taran, District Amritsar.
7. Shri Jaltar Singh, V. & P.O. Mehlanwala, Tehsil Ajnala, District Amritsar.
8. Tarlochan Singh V. & P.O. Tur, District Amritsar.
9. Dial Singh Thekedar, Gali No. 3. Kot Mit Singh, Amritsar.
10. Balwinder Singh Bomb, V. & P.O. Jagdev Kalan, Tehsil Ajnala, District Amritsar.
11. Chief Election Commissioner, India, New Delhi.
12. The State of Punjab, through Secretary Home, Government of Punjab, Chandigarh.

Election Petition Under the provisions of Chapter II, Sections, 80 and 81 and 100 of the Representation People Act, 1951 praying that as under :—

- (i) That the election of Shri Simranjit Singh Mann, may be declare void.
- (ii) Disqualify the respondent No. 1 for a period of 6 years;
- (iii) That Shri Simranjit Singh Mann may be restrained from taking oath of the office of Member Parliament till the final disposal of the petition.
- (iv) That the petitioner may be declared elected as Member Parliament.
- (v) Any other suitable order or direction which this Hon'ble court may deem fit and proper under the facts and circumstances the case may also be issued which may meet the ends of justice,
- (vi) Costs of the petition may also be awarded.

Dated the : 15th February, 1990.

PRESENT

THE HON'BLE MR. JUSTICE S. S. SODHI

For the Petitioners : Ishar Singh, in person.

JUDGMENT

The challenge here to the election of Shri Simranjit Singh Mann to the Lok Sabha from the Tarn Taran Parliamentary Constituency in the elections held in November, 1989, stands thwarted at the very threshold by virtue of the provisions of sub-section (1) of Section 86 of the Representation of the People Act, 1971 (hereinafter referred to as "the Act") by the failure on the part of the petitioner to deposit security for costs as required by Section 117 thereof.

There is no doubt an application by the petitioner seeking exemption from depositing Rs. 2,000/- as security for costs, but a reference to the provisions of the Act would show that no power or authority is conferred upon the Court to either absolve the petitioner from making the security deposit or even to reduce the amount required to be deposited. In dealing with this matter, it would be pertinent to advert to Charan Lal Sahu vs. Nandkishore Bhatt & others, A.I.R. 1973 Supreme Court 2464, where, it was observed "Any discretion to condone the delay in presentation of the petitioner or to absolve the petitioner from payment of security for costs can only be provided under statute governing election disputes. If no discretion is conferred in respect of any of these matters, none can be exercised under any general law or any principle of equity." It was accordingly held

that non-deposit of the security alongwith Election Petition as required under Section 117 of the Act, leaves no option to the Court but to reject it. This was later followed by the Supreme Court in Aeltemesh Reih vs. Chandulal Chandrakar & ors. A.I.R. 1981 Supreme Court 1199.

Such thus being the settled position in law, this petition is hereby dismissed for non-payment of security within the period prescribed in law.

February 15, 1990.

Sd/-

S. S. SODHI, Judge,

[No. 82/PB-HP/7/90]

By Order,

C. R. BRAHMAM, Under Secy.

नई दिल्ली, 25 मई, 1990

शुद्धि पत्र

क्रा. अ. 30 :—आयोग की तारीख 3 मई, 1990 की अधिसूचना सं. 154/प.ब./90 में, 5-6ठी पंक्तियों में श्रीमती लीला चक्रवर्ती का पदनाम 'परिवहन सचिव' दिया गया था जिसे सही करके "सचिव स्वास्थ्य और परिवार कल्याण विभाग, पश्चिम बंगाल सरकार" के रूप में पढ़ा जाए।

[सं. 154/प. ब./90]

आदेश से,

के. पी. जी. कुट्टी, सचिव

New Delhi, the 25th May, 1990

CORRIGENDUM

O.N. 30.—In the Commission's notification No. 154/WB/90, dated the 3rd May, 1990, the designation of Smt. Lina Chakraborty given as "Transport Secretary" in lines 5-6 may be corrected to read as "Secretary Health and Family Welfare Department, Government of West Bengal."

[No. 154/WB/90]

By order,

K. P. G. KUTTY, Secy.

